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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/530,534

09/21/2005

Ulrik Skovgaard Rasmussen

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EXAMINER

COLLINS, MICHAEL

ART UNIT

PAPER NUMBER

3651

NOTIFICATION DATE

DELIVERY MODE

04/30/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usptopatentmail@cantorcolburn.com

Office Action Summary	Application No. 10/530,534	Applicant(s) RASMUSSEN, ULRIK SKOVGAARD	
	Examiner MICHAEL K. COLLINS	Art Unit 3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 7/15/2008 regarding the rejection of claims 16-28 under 35 U.S.C. §112, first paragraph have been re-considered and are not persuasive. With regard to the activation arrangement the Applicant argues, "Applicant respectfully asserts that the art of confectionary dispensers includes well known mechanical couplings that would allow rotation of the rotating grip 101 show Figure 4 to result in rotation of the discharge arrangement 19, 20, and 21." In re-considering this argument it is the position of the Examiner that if the "magazine discharge arrangement" and "output compartment" are novel structures as claimed to the confectionary dispensing art then such novelties would require further novelties to the "activation arrangement" and would not be, as argued, "well known." Therefore, because the activation arrangement is essential to dispensing, its relationship between parts is also essential, and because no information about its structure has been provided, it is the conclusion of the Examiner that one skilled in the art could not develop the confectionary dispenser as claimed without undue experimentation (see MPEP 2164.06(a)).

2. Applicant's arguments filed 1/26/2009 have been fully considered but they are not persuasive. The Applicant argues, "Weitzman does not teach movement of any compartment in the discharge arrangement **relative to the magazine outlets** that results in transfer to an output component that is **rotatable**." However, the bottom of the magazines (74) disclosed by Weitzman are being construed by the Examiner to be the

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fitting compartment which moves when activated by the handle (92), a component in the activation arrangement, and the gear network (88), a component in the discharge arrangement, which function to move this area or compartment in relation to the magazine outlets (64,54) and transfer the article to the rotatable output component (42,54).

3. The Applicant argues “claims 2-16” should be allowed because of the reasons argued for the allowability of the sole independent claim. However, these reasons have not been found convincing.

4. For the foregoing reasons the Applicant’s arguments are not convincing and the rejection of claims 16-28 still stands.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 16-28 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Weitzman (USP 4,109,825).

Regarding claim 16, Weitzman discloses a confectionery dispenser comprising:

- at least two confectionery article magazines (74), each said at least two confectionery article magazines comprising a magazine outlet (64,54) being coupled with at least one confectionery article dispenser outlet (56,60) by means of at least one magazine discharge arrangement (see Figure 3);
- said magazine discharge arrangement comprising at least one confectionery article fitting compartment (see Figure 3 specifically the space at the end of the 74) adapted for performing a movement relative to said magazine outlets (64,54) upon activation of an activation arrangement (38,92) and thereby transferring at least one confectionery article (200) comprised in at least one confectionery article magazine (74) to at least one output compartment (42,54)
- said at least one output compartment (42,54) being adapted for performing a rotating movement upon activation of said activation arrangement (38) and thereby transferring at least one confectionery article comprised in at least one of said output compartments to said dispenser outlet (56).

Regarding claim 17, Weitzman discloses the confectionery dispenser according to claim 16, wherein said confectionery article magazines are exchangeable.

Regarding claim 18, Weitzman discloses the confectionery dispenser according to claim 16, wherein said output compartment is mechanically coupled with said at least

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one outlet and thereby facilitating a transfer of at least one confectionery article upon activation of said activation arrangement (see column 5 lines 43-56).

Regarding claim 19, Weitzman discloses the confectionery dispenser according to claim 16, wherein the activation arrangement is manually driven.

Regarding claim 20, Weitzman discloses the confectionery dispenser according to claim 16, wherein the activation arrangement is automatically driven.

Regarding claim 21, Weitzman discloses the confectionery dispenser according to claim 16, wherein said article comprises chewing gum packages.

Regarding claim 22, Weitzman discloses the confectionery dispenser according to claim 16, wherein said magazine discharge arrangement comprises at least one confectionery article fitting compartment being rotatable upon activation by said activation arrangement.

Regarding claim 23, Weitzman discloses the confectionery dispenser according to claim 16, wherein said magazines are fitted to the dispenser in a substantially vertical direction thereby obtaining a gravity facilitated emptying of the magazines into lower compartments when activating the magazine discharge arrangement.

Regarding claim 24, Weitzman discloses the confectionery dispenser according to claim 16, wherein said magazines are fitted in a substantially circular profile, when seen from above.

Regarding claim 25, Weitzman discloses the confectionery dispenser according to claim 16, wherein the magazines define an orientation of the magazine contained article.

Regarding claim 26, Weitzman discloses the confectionery dispenser according to claim 16, wherein the magazines are substantially translucent, thereby facilitating that a user of the dispenser may visually see at least some of the magazine contained articles.

Regarding claim 27, Weitzman discloses the confectionery dispenser according to claim 16, wherein the magazines are arranged within a substantially translucent housing.

Regarding claim 28, Weitzman discloses the confectionery dispenser according to claim 16, wherein said confectionery articles are fed to said discharge arrangement by means of at least two confectionery article holding magazines.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL K. COLLINS whose telephone number is (571)272-8970. The examiner can normally be reached on 8:30 am - 5:00 pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene O. Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

M.K.C.
4/25/2009

/Gene Crawford/
Supervisory Patent Examiner, Art
Unit 3651